

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

DESHAUN CARTER, SHONITA FORD,)	
TARRENCE GORDON, DONALD)	
HAWTHORNE, KERRY HAWTHORNE,)	
DANA HOOPER, LARRY OSBORNE,)	
BARRY REYNOLDS)	
)	CIVIL ACTION NO.:
)	2:07-CV-0988-WKW
PLAINTIFFS,)	
)	
vs.)	
)	
DAEHAN SOLUTION ALABAMA, LLC)	
DEFENDANT.)	

**UNOPPOSED MOTION OF DEFENDANT DAEHAN SOLUTION
ALABAMA, LLC TO MODIFY UNIFORM SCHEDULING ORDER (DOC NO. 10)**

COMES NOW Defendant Daehan Solution Alabama, LLC (“Daehan”), pursuant to Rule 16(b)(4) of the Federal Rules of Civil Procedure, and respectfully moves the Court for a modification of the December 19, 2007 Scheduling Order (Doc. No. 10) to extend all deadlines and the trial setting by six (6) months.

In support of this motion, Defendant states as follows:

1. Plaintiffs commenced this action on November 2, 2007. (Doc. No. 1).
2. On December 19, 2007, the Court entered a Uniform Scheduling Order setting forth various discovery and dispositive motions deadlines and establishing the trial date for this action.
3. In early April 2008, Daehan changed their legal counsel to the undersigned counsel (hereinafter, the “Defendant’s counsel”).
4. On April 9, 2008, Defendant’s counsel filed their notice of appearance in this action. Although Defendant’s counsel have reviewed the Complaint and other electronically

available pleadings in this action, they have not received the litigation file from Daehan's former counsel, Burr & Forman. Defendant's counsel and representatives of Burr & Forman are currently engaged in the orderly transfer of the file and anticipate that the file transfer will be completed no later than Friday, April 18, 2008. Defendant's counsel anticipates that it may take several weeks to review the complete file and to become familiarized and conversant with the facts of the case.

5. Although the parties have exchanged some written discovery, there have been no depositions. Significant discovery remains outstanding, including the depositions of the individual plaintiffs and the principles of Daehan involved in the employment decisions made the bases of Plaintiffs' claims.

6. Furthermore, this is not a routine employment case. Rather, as set forth in Plaintiffs' 31-page Complaint, this lawsuit involves multiple allegations by multiple (8) plaintiffs regarding conduct spanning a period of several years and alleging claims of discriminatory promotion, demotion and pay practices, a racially hostile environment, retaliation, negligent hiring and retention, and claims for declaratory and injunctive relief. Thus, Defendant's counsel views this lawsuit as complex in nature due to the large number of plaintiffs involved, the character of their claims and potential discovery complications involving overseas witnesses.

7. Although Defendant's counsel appreciates the need for an efficient and timely disposition of this case, they submit that extending the discovery deadline and trial date by six (6) months would accomplish those goals and encourage the efficient administration of justice by allowing the parties to complete discovery, narrow the issues for trial, potentially eliminate the need for trial regarding the claims of one or more of Plaintiffs, and/or facilitate potential settlement of the claims of one or more Plaintiffs. Furthermore, given the change of counsel and

the size and complexity of this litigation, even the exercise of due diligence would not permit the parties to meet the current discovery and dispositive motions deadlines and the trial date.

8. Rule 16 of the Federal Rules of Civil Procedure provides that a scheduling order may be modified by leave of Court upon a showing of good cause. The “good cause” standard of Rule 16 primarily considers the diligence of the party seeking the amendment. FED. R. CIV. P. 16 (advisory committee’s notes) (1983 amendment). *See also Perez v. Miami-Dade County*, 297 F.3d 1255 (11th Cir. 2002) (holding that the court can modify a scheduling order for good cause); *Sosa v. Airprint Systems Inc.*, 133 F.3d 1417 (11th Cir. 1998) (“good cause” means scheduling deadlines cannot be met despite party’s diligence).¹ In the instant case, there is no showing of any lack of diligence by Daehan. The parties have completed much of their initial exchange of documents and soon will commence depositions. Furthermore, Defendant Daehan’s substitution of new counsel and their need for a reasonable amount of time to become familiar with the case file further support the proposed modification.

9. Moreover, because this case is in the early stages of discovery, modification of the Uniform Scheduling Order would not prejudice the parties. As noted above, the parties have not yet commenced depositions.

10. Finally, Defendant’s counsel have consulted with Plaintiffs’ counsel, and they do not oppose this motion.

WHEREFORE, PREMISES CONSIDERED, Defendant Daehan Solution Alabama, LLC respectfully requests that the Court grant Defendant’s motion to modify the Uniform Scheduling Order and extend the current deadlines and trial setting by six (6) months.

¹ *See also Pulsecard, Inc. v. Discover Card Services*, 168 F.R.D. 295, 301-302 (D. Kan. 1996); *Harrison Beverage Co. v. Dribeck Importers, Inc.*, 133 F.R.D. 463, 469 (D.N.J. 1990); *Amcast Indus. Corp. v. Detrex Corp.* 132 F.R.D. 213, 217 (N.D. Ind. 1990); *Forstmann v. Culp*, 114 F.R.D. 83, 85 (M.D.N.C. 1987); 6A Wright, Miller & Kane, Federal Practice and Procedure § 1522.1 at 231 (2d ed. 1990).

/s/ Christopher W. Weller
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above document has been electronically filed using the CM/ECF system and by U.S. mail to Plaintiffs Shonita Ford and Deshaun Carter on this the 11th day of April, 2008 as follows:

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